

## **EXHIBIT D**

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10 PUBLIC UTILITY DISTRICT NO. 2 OF  
GRANT COUNTY WASHINGTON

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF WASHINGTON  
13

14 PUBLIC UTILITY DISTRICT NO. 2  
15 OF GRANT COUNTY  
WASHINGTON,

16 Plaintiff,

17 v.

18 CALIFORNIA INDEPENDENT  
19 SYSTEM OPERATOR  
CORPORATION, SOUTHERN  
20 CALIFORNIA EDISON COMPANY,  
and SAN DIEGO GAS & ELECTRIC  
21 COMPANY,

22 Defendants.  
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Case No. CV-04-129 JLQ

**FIRST AMENDED COMPLAINT  
FOR:**

- (1) BREACH OF CONTRACT  
UNDER THE UCC;
- (2) OPEN BOOK ACCOUNT;
- (3) BREACH OF ORAL  
CONTRACT
- (4) BREACH OF WRITTEN  
CONTRACT;
- (5) ANTICIPATORY BREACH OF  
CONTRACT;
- (6) GOODS SOLD AND  
DELIVERED;
- (7) UNJUST ENRICHMENT;
- (8) JUDICIAL DECLARATION OF  
ENFORCEABLE OBLIGATION;  
and
- (9) ACCOUNTING

**DEMAND FOR JURY TRIAL**

1 Plaintiff Public Utility District No. 2 of Grant County Washington ("Grant  
2 County") for its complaint against California Independent System Operator  
3 Corporation ("CAISO"), Southern California Edison Company ("SCE"), and San  
4 Diego Gas & Electric Company ("SDG&E") alleges as follows:

### 5 INTRODUCTION

6 1. By way of this action, Grant County seeks payment for over \$18  
7 million worth of electric energy that it sold to CAISO during the California energy  
8 crisis in late 2000.

9 2. Grant County is a public utility district that owns and operates certain  
10 power plants in the State of Washington for the benefit of consumers of electric  
11 energy in Grant County, Washington. Grant County is connected to the interstate  
12 power transmission grid and, from time to time, sells surplus electric energy  
13 produced at its power plants to purchasers other than Grant County's own  
14 consumers.

15 3. At the height of the California electric energy crisis, during November  
16 and December 2000, Grant County responded to a series of separate requests from  
17 CAISO to sell specified quantities of electric energy to CAISO. Pursuant to those  
18 requests, Grant County sold and delivered to CAISO, through the interstate power  
19 grid, over \$18 million worth of electric energy, at prices agreed upon by CAISO  
20 and Grant County. At no time during the course of these transactions did CAISO  
21 indicate or otherwise reveal that, in contracting with Grant County to purchase  
22 electric energy, CAISO was acting as an agent for various undisclosed principals,  
23 including SCE, SDG&E, and Pacific Gas and Electric Company ("PG&E")  
24 (collectively, the "California Electric Companies"). Instead, these transactions  
25 were presented to Grant County as bilateral agreements in which CAISO offered to  
26 buy, and Grant County agreed to sell, electric energy.

27 4. CAISO has made partial payments to Grant County on account of the  
28 purchases made in November and December 2000, but, as of April 22, 2004, a

1 balance of \$18,269,800.00 in principal plus interest remained due and owing. Since  
2 that date, CAISO has made one further payment of \$10,666.57 on March 28, 2005.  
3 However, the majority of that balance remains unpaid, with a significant amount of  
4 additional interest now accrued.

5 5. CAISO has admitted, in a filing it made with the Federal Energy  
6 Regulatory Commission ("FERC"), that it did in fact enter into these transactions  
7 with Grant County and that Grant County has not been paid in full. However, in  
8 that same filing, CAISO completely disavowed any obligation on its part,  
9 contractual or otherwise, to pay for the electric energy it purchased from Grant  
10 County. Instead, CAISO for the first time claimed that the contracts it entered into  
11 for the purchase of electric energy were not for its own account, but were instead  
12 entered into on behalf of various undisclosed principals. Moreover, CAISO  
13 insisted that it is not responsible to Grant County and other sellers of electric energy  
14 for non-payment by those principals.

15 6. Recently, the California Electric Companies have come forward and  
16 admitted that they purchased electric energy from Grant County through CAISO  
17 during the energy crisis. By way of a letter dated December 2, 2005 and an  
18 attached "Claim for Damages," the California Electric Companies announced their  
19 intention to file a separate lawsuit against Grant County seeking a refund of some  
20 portion of the rates charged by Grant County to CAISO for the electric energy that  
21 was purchased—notwithstanding the fact that Grant County has not yet been paid  
22 in full either by CAISO or by the California Electric Companies. Accordingly,  
23 Grant County is informed and believes, and on that basis alleges, that the California  
24 Electric Companies comprise some or all of the undisclosed principals upon whose  
25 behalf CAISO entered into the contracts at issue in this lawsuit, and that they, along  
26 with their agent CAISO, are jointly and severally liable to Grant County for that  
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1 portion of the outstanding balance that is attributable to purchases made by CAISO  
2 on their behalf.<sup>1</sup>

3 7. Grant County seeks a judicial declaration that CAISO, SCE, and  
4 SDG&E are obligated to pay Grant County for the electric energy that was  
5 purchased by CAISO, and a judgment in favor of Grant County for the outstanding  
6 balance plus accrued pre and post-judgment interest.

### 7 JURISDICTION AND VENUE

8 8. Grant County is a municipal corporation duly organized and existing  
9 under the laws of the State of Washington, with its principal place of business  
10 located in the State of Washington at 30 C Street SW, P.O. Box 878, Ephrata WA  
11 98823.

12 9. Grant County is informed and believes, and on that basis alleges, that  
13 CAISO is a nonprofit public benefit corporation duly organized and existing under  
14 the laws of the State of California, with its principal place of business located in the  
15 State of California at 151 Blue Ravine Road, Folsom, CA 95630.

16 10. Grant County is informed and believes, and on that basis alleges, that  
17 SCE is a corporation duly organized and existing under the laws of the State of  
18 California, with its principal place of business located in the State of California at  
19 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, CA 91770.

20 <sup>1</sup> Although PG&E is among the undisclosed principals that Grant County believes are liable  
21 for CAISO's debt, PG&E is not named as a defendant herein. On April 6, 2001, PG&E filed a  
22 voluntary petition for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532, in the  
23 United States Bankruptcy Court for the Northern District of California (the "Bankruptcy Court"). On  
24 December 22, 2003, the Bankruptcy Court entered an order confirming the PG&E Plan of  
25 Reorganization. Grant County is already the holder of a timely-filed, disputed, unliquidated claim in  
26 the PG&E chapter 11 case that includes the amounts sought by Grant County in this lawsuit. While it  
27 is anticipated that Grant County may, at a later date, seek to transfer the proceedings relating to its  
28 proof of claim from the Bankruptcy Court to this Court, Grant County has not done so at this time.

1 11. Grant County is informed and believes, and on that basis alleges, that  
2 SDG&E is a corporation duly organized and existing under the laws of the State of  
3 California, with its principal place of business located in the State of California at  
4 8330 Century Park Court, San Diego, CA 92123.

5 12. This Court has original jurisdiction under 28 U.S.C. § 1332, in that this  
6 is a civil action between citizens of different states in which the matter in  
7 controversy exceeds, exclusive of costs and interest, seventy-five thousand dollars  
8 (\$75,000).

9 13. Venue is proper in the Eastern District of Washington under 28 U.S.C.  
10 § 1391(a) in that under 28 U.S.C. § 1391(c), CAISO, SCE, and SDG&E are  
11 deemed to reside in the Eastern District of Washington and a substantial portion of  
12 the events or omissions giving rise to the causes of action alleged herein occurred in  
13 this District.

#### 14 **FACTUAL BACKGROUND**

##### 15 **Grant County**

16 14. Grant County was established in 1938 as a consumer-owned utility.  
17 Today, Grant County owns and operates one of the nation's largest hydropower  
18 plant systems, with the capacity to generate nearly 2,000 megawatts of electric  
19 energy.

20 15. Grant County provides retail electric energy to approximately 40,000  
21 customers in Grant County, Washington. However, because Grant County is  
22 connected to the interstate power transmission grid, it is also able to sell surplus  
23 electric energy produced at its power plants to purchasers other than Grant County's  
24 own consumers.

##### 25 **CAISO and the California Electric Companies**

26 16. CAISO is responsible for operating the California wholesale power  
27 grid. CAISO directs the flow of electricity along the long-distance, high voltage  
28



1 power lines that connect California with neighboring states, and serves as a link  
2 between the power plants and California utilities.

3 17. CAISO is one of the entities charged with ensuring that California's  
4 energy supply meets demand. During periods of greater demand, CAISO must rely  
5 more heavily on out-of-state power generators to secure energy for California's  
6 utilities, and ultimately California's consumers.

7 18. The California Electric Companies rely on CAISO to supply electric  
8 energy to meet the needs of their customers to the extent the California Electric  
9 Companies do not procure sufficient resources to meet those needs.

10 **The Grant County-CAISO Transactions**

11 19. In or around November and December of 2000, the State of California  
12 was experiencing an energy crisis.

13 20. Between November 17, 2000 and December 13, 2000, CAISO,  
14 through its representatives, made numerous calls to representatives of Grant County  
15 requesting that Grant County sell its excess electric energy to CAISO.

16 21. Between November 17, 2000 and December 13, 2000, Grant County  
17 accepted CAISO's offers to buy electric energy.

18 22. Between November 17, 2000 and December 13, 2000, CAISO made  
19 multiple purchases of electric energy from Grant County, totaling twenty-three  
20 thousand and seventy-nine megawatt-hours (23,079 MWh).

21 23. The sales between CAISO and Grant County that occurred between  
22 November 17, 2000 and December 13, 2000 were bilateral sales at negotiated  
23 prices.

24 24. Grant County delivered all of the electric energy that Grant County  
25 sold to CAISO between November 17, 2000 and December 13, 2000 to the Mid-  
26 Columbia Hub in the State of Washington and/or to the California-Oregon Border.  
27 CAISO received all of the electric energy that Grant County sold to CAISO  
28 between November 17, 2000 and December 13, 2000 at the Mid-Columbia Hub in

1 the State of Washington and/or at the California-Oregon Border. Arrangement for  
2 further transportation was CAISO's responsibility.

3 25. Grant County sent CAISO written invoices accurately reflecting  
4 CAISO's purchases of electric energy from Grant County between November 17,  
5 2000 and December 13, 2000. True and correct copies of those invoices are  
6 attached hereto as Exhibits A and B. CAISO has never disputed the validity, or the  
7 accuracy as to price and quantity, of Grant County's invoices. Instead, as more  
8 fully alleged below, CAISO has, without objection, made partial payments to Grant  
9 County from time to time on those invoices.

10 26. Grant County has performed all conditions, covenants, and promises  
11 required on its part to be performed in accordance with the terms and conditions of  
12 its contracts with CAISO.

13 27. CAISO has not paid Grant County the full amount due to Grant  
14 County for electric energy that Grant County delivered to CAISO between  
15 November 17, 2000 and December 13, 2000. Instead, as of April 22, 2004, CAISO  
16 had paid only nine hundred and eleven thousand four hundred and eighty dollars  
17 and fifty-eight cents (\$911,480.58) to Grant County. That aggregate amount was  
18 paid in intermittent payments commencing on or about February 5, 2001 and  
19 continuing until on or about March 25, 2004. The amounts and dates of such  
20 payments are set forth below:

21	February 5, 2001	\$ 4,342.21*
22	February 9, 2001	53,190.73*
23	March 7, 2001	179,967.06*
24	March 7, 2001	380,811.85
25	March 9, 2001	13,386.30
26	March 23, 2001	46,672.86
27	April 11, 2001	909.45
28	April 30, 2001	428.38



1	January 7, 2002	493.21
2	February 1, 2002	1,764.78
3	February 6, 2002	20,624.96
4	September 27, 2002	2,466.93
5	October 9, 2002	929.92
6	November 5, 2002	26.48
7	November 6, 2003	184,522.63
8	February 27, 2004	4,462.10
9	March 25, 2004	<u>16,480.73</u>
10	Total Payments	\$ 911,480.58

11 \* These have been applied to principal. All other payments have been  
 12 applied to accrued interest.

13 28. As of April 22, 2004, CAISO still owed Grant County eighteen million  
 14 two hundred and sixty nine thousand eight hundred dollars (\$18,269,800.00)  
 15 exclusive of interest. Since that date, CAISO has made one further payment of  
 16 \$10,666.57 on March 28, 2005. However, the majority of that balance remains  
 17 unpaid, with a significant amount of additional interest now accrued.

18 29. In *San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary*  
 19 *Services Into Markets Operated by the California Independent System Operator*  
 20 *and the California Power Exchange*, Docket Nos., EL00-95-081, EL00-95-074,  
 21 EL00-95-086, EL00-98-069, EL00-98-062, EL00-98-073, before FERC ("FERC  
 22 Mitigation Proceeding"), CAISO admitted both that "CAISO contracted with Grant  
 23 County for energy..." and that Grant County "has not been paid in full" for that  
 24 electric energy. (*Motion of the California Independent System Operator*  
 25 *Corporation For Clarification of the Commission's Order on Rehearing Dated*  
 26 *October 16, 2003*, filed March 12, 2004, hereinafter "*Motion for Clarification*," at  
 27 pp. 3, 4.) However, as more fully alleged below, in that same motion, CAISO  
 28

1 disavowed any obligation to pay Grant County for the electric energy purchased.

2 (*Id.* at pp. 7, 9.)

3 **The Undisclosed Principals**

4 30. In its *Motion for Clarification*, CAISO contended that "CAISO only  
5 contracts for energy on behalf of Scheduling Coordinators, not for its own account,  
6 and that whenever a Scheduling Coordinator fails to pay its portion of the cost of  
7 energy purchased by the CAISO on its behalf, the seller seeking payment has a  
8 claim only against the Scheduling Coordinator and must pursue that Scheduling  
9 Coordinator, even in bankruptcy proceedings, unless the CAISO agrees as an  
10 accommodation to do so, pursuant to Section 11.20.1." (*Id.* at p. 7.) CAISO further  
11 contended that "CAISO *only* contracts for energy pursuant to the authority in and  
12 terms of its tariff. It matters not *from whom* the CAISO purchases energy, *nor*  
13 *whether the seller happens to be a governmental entity whose rates the Commission*  
14 *cannot regulate*; regardless of the seller's identity, those contracts are entered on  
15 behalf of Scheduling Coordinators and not on the CAISO's own behalf. If a  
16 Scheduling Coordinator fails to pay, the entity with a claim against that Scheduling  
17 Coordinator is the seller, not the CAISO—and the seller's only claim is against that  
18 Scheduling Coordinator, not the CAISO." (*Id.* at p. 9.)

19 31. However, at no time during the parties' communications that occurred  
20 between November 17, 2000 and December 13, 2000 did CAISO notify Grant  
21 County that CAISO was acting as an agent for one or more principals in its  
22 purchase transactions with Grant County. Further, at no time during the parties'  
23 communications that occurred between November 17, 2000 and December 13,  
24 2000, did Grant County know or have reason to know that CAISO was acting as an  
25 agent for one or more principals in its purchase transactions with Grant County.

26 32. On December 2, 2005, the California Electric Companies sent a letter  
27 and "Claim for Damages" to the Grant County Commissioners acknowledging that  
28

1 they purchased electric energy from Grant County through CAISO between  
2 November 17, 2000 and December 13, 2000.

3 33. On information and belief, Grant County alleges that the California  
4 Electric Companies represent some or all of the undisclosed principals upon whose  
5 behalf CAISO entered into the contracts with Grant County, and that they, along  
6 with their agent CAISO, are jointly and severally liable to Grant County for some  
7 portion of the outstanding balance that is due.

8 **The Grant County-CAISO Transactions Are Not Subject To FERC**  
9 **Jurisdiction And Are Not Governed By The CAISO Tariff, Or Any Other**  
10 **Agreement**

11 34. In the FERC Mitigation Proceeding, in an Order dated October 16,  
12 2003, FERC ruled that FERC does not have jurisdiction over Grant County's sales  
13 of electric energy to CAISO made between November 17, 2000 and December 13,  
14 2000. No party in the FERC Mitigation Proceeding timely sought rehearing of the  
15 decision on jurisdiction over Grant County. Because there was no timely request  
16 for a rehearing of the October 16, 2003 Order regarding Grant County in the FERC  
17 Mitigation Proceeding, the October 16, 2003 Order regarding Grant County is final  
18 and not reviewable. *See e.g.* 16 U.S.C. 8251(a) (2002); *San Diego Gas & Elec. Co.*,  
19 104 FERC ¶61,186, at P 5 (2003) ("the time period within which a party may file  
20 an application for rehearing of a Commission order is statutorily established at 30  
21 days by Section 313(a) of the FPA, and the Commission has no discretion to extend  
22 that deadline."); *Boston Gas Co. v. FERC*, 575 F.2d 975, 977-79 (1st Cir. 1978).  
23 Notwithstanding, the Commission subsequently issued further decisions purporting  
24 to reconsider and in some respects reverse its October 16 Order, including with  
25 respect to the issue of its jurisdiction over Grant County's electric energy sales to  
26 CAISO. Those decisions are currently the subject of review proceedings at the  
27 United States Court of Appeals for the Ninth Circuit.

1           35. Grant County has not signed or otherwise agreed to a "Participating  
2 Generator Agreement" as the phrase is defined in the CAISO's Conformed Electric  
3 Tariff in connection with Grant County's sale of electric energy to CAISO between  
4 November 17, 2000 and December 13, 2000.

5           36. Grant County is located outside the CAISO Control Area.

6           37. The energy resources of Grant County are not subject to the CAISO's  
7 Dispatch instructions under Section 5.6.1 of the CAISO Tariff.

8           38. Grant County's sales of electric energy to CAISO between November  
9 17, 2000 and December 13, 2000 were not made under the CAISO Tariff  
10 centralized, single clearing price auction markets.

11           39. Grant County has not signed or otherwise agreed to a "Scheduling  
12 Coordinator Agreement" in connection with Grant County's sale of electric energy  
13 to the CAISO between November 17, 2000 and December 13, 2000.

14           40. Grant County has never agreed in any way to be bound by the terms  
15 and conditions of the CAISO Tariff.

16                           **FIRST CAUSE OF ACTION**

17                           **(Breach of Contract Under Uniform Commercial Code**

18                           **Against All Defendants)**

19           41. Grant County hereby incorporates and adopts by reference each and  
20 every allegation in the preceding paragraphs as if fully set forth.

21           42. Between November 17, 2000 and December 13, 2000, Grant County  
22 and CAISO entered into a series of contracts for the sale of electric energy, which  
23 are contracts for the sale of goods within the meaning of Division 2 of the Uniform  
24 Commercial Code.

25           43. On information and belief, at all times during the negotiation and  
26 formation of these contracts, CAISO was acting on behalf of and as an agent for  
27 various undisclosed principals, including the California Electric Companies.  
28

1 44. Grant County has performed all conditions, covenants, and promises  
2 required on its part to be performed in accordance with the terms and conditions of  
3 these contracts.

4 45. CAISO and the California Electric Companies have breached these  
5 contracts by not paying the full amount due to Grant County.

6 46. As a result of CAISO's and the California Electric Companies' breach  
7 of these contracts, Grant County has been damaged.

### 8 **SECOND CAUSE OF ACTION**

#### 9 **(Open Book Account Against All Defendants)**

10 47. Grant County hereby incorporates and adopts by reference each and  
11 every allegation in the preceding paragraphs as if fully set forth.

12 48. Between November 17, 2000 and December 13, 2000, CAISO became  
13 indebted to Grant County on an open book account for money due in the sum of  
14 eighteen million five hundred and seven thousand three hundred dollars  
15 (\$18,507,300.00) for electric energy delivered by Grant County to CAISO at  
16 CAISO's special instance and request, and for which CAISO agreed to pay the  
17 above sum.

18 49. On information and belief, at all times during these transactions for the  
19 purchase of electric energy, CAISO was acting on behalf of and as an agent for  
20 various undisclosed principals, including the California Electric Companies.

21 50. The above sum has not been paid in full although a demand thereof has  
22 been made, and, as of April 22, 2004, there was due, owing and unpaid the sum of  
23 eighteen million two hundred and sixty nine thousand eight hundred dollars  
24 (\$18,269,800.00), with pre and post-judgment interest thereon. Since that date,  
25 CAISO has made one further payment of \$10,666.57 on March 28, 2005.  
26 However, the majority of that balance remains unpaid, with a significant amount of  
27 additional interest now accrued.



### **THIRD CAUSE OF ACTION**

#### **(Breach of Oral Contract Against All Defendants)**

51. Grant County hereby incorporates and adopts by reference each and every allegation in the preceding paragraphs as if fully set forth.

52. Between November 17, 2000 and December 13, 2000, CAISO, through its representatives, made numerous calls to representatives of Grant County requesting that Grant County sell its excess electric energy to CAISO.

53. Between November 17, 2000 and December 13, 2000, Grant County orally accepted CAISO's offers to buy electric energy.

54. On information and belief, at all times during the negotiation and formation of these oral contracts, CAISO was acting on behalf of and as an agent for various undisclosed principals, including the California Electric Companies.

55. Grant County has performed all conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of these oral contracts.

56. CAISO and the California Electric Companies have breached these oral contracts by not paying the full amount due to Grant County.

57. As a result of CAISO's and the California Electric Companies' breach of these oral contracts, Grant County has been damaged.

### **FOURTH CAUSE OF ACTION**

#### **(Breach of Written Contract Against All Defendants)**

58. Grant County hereby incorporates and adopts by reference each and every allegation in the preceding paragraphs as if fully set forth.

59. Between November 17, 2000 and December 13, 2000, CAISO entered into certain transactions for the purchase of electric energy from Grant County.

60. Grant County delivered to CAISO a written invoice including all of the essential terms agreed upon for the sale of electric energy between Grant County



1 and CAISO for November, 2000. Attached hereto as Exhibit A is a true and correct  
2 copy of this invoice.

3 61. Grant County delivered to CAISO a second written invoice including  
4 all of the terms agreed upon for the sale of electric energy between Grant County  
5 and CAISO for December, 2000. Attached hereto as Exhibit B is a true and correct  
6 copy of this invoice.

7 62. CAISO did not object to the validity nor dispute the accuracy as to  
8 price or quantity of the written invoices delivered to CAISO, and CAISO made  
9 payments to Grant County pursuant to the terms set forth in the written invoices,  
10 thereby accepting the terms set forth in those written invoices and creating written  
11 contracts between Grant County and CAISO for the sale of electric energy.

12 63. On information and belief, at all times during the negotiation and  
13 formation of these written contracts, CAISO was acting on behalf of and as an  
14 agent for various undisclosed principals, including the California Electric  
15 Companies.

16 64. Grant County has performed all conditions, covenants, and promises  
17 required on its part to be performed in accordance with the terms and conditions of  
18 these written contracts.

19 65. CAISO and the California Electric Companies have breached these  
20 written contracts by not paying the full amount due to Grant County.

21 66. As a result of CAISO's and the California Electric Companies' breach  
22 of these written contracts, Grant County has been damaged.

### 23 **FIFTH CAUSE OF ACTION**

#### 24 **(Anticipatory Breach Against CAISO)**

25 67. Grant County hereby incorporates and adopts by reference each and  
26 every allegation in the preceding paragraphs as if fully set forth.

27 68. Between November 17, 2000 and December 13, 2000, Grant County  
28 and CAISO entered into contracts for the sale of electric energy.

1        69. On or about March 12, 2004, CAISO, in its *Motion for Clarification*  
2 gave notice that CAISO would not perform the contracts and totally repudiated the  
3 contracts.

4        70. CAISO's repudiation has not been retracted.

5        71. At the time Grant County received CAISO's repudiation, Grant County  
6 had performed all conditions, covenants, and promises required on its part to be  
7 performed in accordance with the terms and conditions of the contracts.

8        72. As a result of CAISO's repudiation and breach of its contracts with  
9 Grant County, Grant County has been damaged.

10                    **SIXTH CAUSE OF ACTION**

11                    **(Goods Sold and Delivered Against All Defendants)**

12        73. Grant County hereby incorporates and adopts by reference each and  
13 every allegation in the preceding paragraphs as if fully set forth.

14        74. Between November 17, 2000 and December 13, 2000, CAISO became  
15 indebted to Grant County in the sum of eighteen million five hundred and seven  
16 thousand three hundred dollars (\$18,507,300.00) for electric energy sold and  
17 delivered to CAISO.

18        75. Grant County has demanded payment from CAISO.

19        76. As of April 22, 2004, CAISO had paid only the sum of nine hundred  
20 and eleven thousand four hundred and eighty dollars and fifty-eight cents  
21 (\$911,480.58) to Grant County, leaving a balance due and owing of eighteen  
22 million two hundred and sixty nine thousand eight hundred dollars  
23 (\$18,269,800.00), with pre and post-judgment interest thereon. Since that date,  
24 CAISO has made one further payment of \$10,666.57 on March 28, 2005.  
25 However, the majority of that balance remains unpaid, with a significant amount of  
26 additional interest now accrued.  
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1 77. On information and belief, at all times during these transactions for the  
2 sale and delivery of electric energy, CAISO was acting on behalf of and as an agent  
3 for various undisclosed principals, including the California Electric Companies.

4 **SEVENTH CAUSE OF ACTION**

5 **(Unjust Enrichment Against All Defendants)**

6 78. Grant County hereby incorporates and adopts by reference each and  
7 every allegation in the preceding paragraphs as if fully set forth.

8 79. Between November 17, 2000 and December 13, 2000, Grant County  
9 delivered, and CAISO accepted eighteen million five hundred and seven thousand  
10 three hundred dollars (\$18,507,300.00) worth of electric energy.

11 80. On information and belief, at all times during the sale and delivery of  
12 electric energy from Grant County to CAISO, CAISO was acting on behalf of and  
13 as an agent for various undisclosed principals, including the California Electric  
14 Companies.

15 81. On information and belief, CAISO passed on to its various undisclosed  
16 principals, and/or used for the benefit of its various undisclosed principals, all of  
17 the electric energy that Grant County delivered to CAISO with some or all of the  
18 electric energy being delivered to, and/or used for the benefit of, the California  
19 Electric Companies.

20 82. As a result of Grant County's delivery of the electric energy to CAISO,  
21 and the ultimate delivery of such energy to the various undisclosed principals,  
22 and/or the use by CAISO of such energy for the benefit of its various undisclosed  
23 principals, a benefit was conferred by Grant County on CAISO and the undisclosed  
24 principals, including the California Electric Companies.

25 83. On information and belief, since December 17, 2000, CAISO has  
26 received some money from the principals for whom CAISO was acting as an agent,  
27 a portion of which is due to Grant County and a portion of which has been  
28 disbursed to Grant County and other parties. However, as of April 22, 2004,

1 CAISO had paid only the sum of nine hundred and eleven thousand four hundred  
2 and eighty dollars and fifty-eight cents (\$911,480.58) to Grant County, leaving a  
3 balance due and owing of eighteen million two hundred and sixty nine thousand  
4 eight hundred dollars (\$18,269,800.00), with interest thereon. Since that date,  
5 CAISO has made one further payment of \$10,666.57 on March 28, 2005.  
6 However, the majority of that balance remains unpaid, with a significant amount of  
7 additional interest now accrued.

8 84. As a result of CAISO's and the California Electric Companies' failure  
9 to pay Grant County in full for the electric energy that was delivered to CAISO by  
10 Grant County, CAISO and the California Electric Companies have been unjustly  
11 enriched and Grant County is therefore entitled to restitution.

#### 12 **EIGHTH CAUSE OF ACTION**

##### 13 **(Judicial Declaration of Enforceable Obligation Against All Defendants)**

14 85. Grant County hereby incorporates and adopts by reference each and  
15 every allegation in the preceding paragraphs as if fully set forth.

16 86. Between November 17, 2000 and December 13, 2000, Grant County  
17 sold and delivered electric energy to CAISO.

18 87. Grant County has performed all conditions, covenants, and promises  
19 required on its part to be performed.

20 88. CAISO has disavowed any obligation to pay Grant County any money  
21 for the electric energy sold and delivered by Grant County to CAISO between  
22 November 17, 2000 and December 13, 2000.

23 89. CAISO's disavowal of its obligation to pay the money owed to Grant  
24 County in connection with its delivery of electric energy between November 17,  
25 2000 and December 13, 2000 and the uncertainty created by CAISO's disavowal of  
26 these obligations is causing Grant County damage.

27 90. A justiciable controversy therefore exists between CAISO and Grant  
28 County.

1 91. Moreover, on information and belief, at all times during the relevant  
2 transactions, CAISO was acting on behalf of and as an agent for various  
3 undisclosed principals, including the California Electric Companies. As such, the  
4 California Electric Companies are jointly and severally obligated to pay Grant  
5 County for the electric energy purchased by CAISO on their behalf.

6 92. In their December 2, 2005 letter and attached "Claim for Damages,"  
7 the California Electric Companies have announced their intention to file a lawsuit  
8 against Grant County, seeking "reimbursement" from Grant County for the  
9 difference between the rates Grant County charged for its electric energy and the  
10 rates set by FERC for transactions that are governed by the CAISO tariffs  
11 (notwithstanding the fact that Grant County has not been paid most of the amounts  
12 due for its sales of energy to CAISO). This letter impliedly disavows any  
13 obligation by the California Electric Companies to pay Grant County the remaining  
14 balance for the delivery of electric energy between November 17, 2000 and  
15 December 13, 2000.

16 93. The California Electric Companies' disavowal of their obligation to  
17 pay Grant County and the uncertainty created by the California Electric Companies'  
18 disavowal of these obligations is causing Grant County damage.

19 94. A justiciable controversy therefore also exists between the California  
20 Electric Companies and Grant County.

### 21 **NINTH CAUSE OF ACTION**

#### 22 **(Accounting Against CAISO)**

23 95. Grant County hereby incorporates and adopts by reference each and  
24 every allegation in the preceding paragraphs as if fully set forth.

25 96. CAISO has alleged that at all times mentioned herein CAISO was the  
26 agent of various undisclosed principals and, in purchasing electric energy from  
27 Grant County between November 17, 2000 and December 13, 2000, was acting  
28 within the course and scope of such alleged agency.



1           97. Between November 17, 2000 and December 13, 2000, CAISO became  
2 indebted to Grant County in the sum of eighteen million five hundred and seven  
3 thousand three hundred dollars (\$18,507,300.00) for electric energy sold and  
4 delivered to CAISO.

5           98. Grant County has demanded payment from CAISO.

6           99. As of April 22, 2004, CAISO had paid only the sum of nine hundred  
7 and eleven thousand four hundred and eighty dollars and fifty-eight cents  
8 (\$911,480.58) to Grant County, leaving a balance due of eighteen million two  
9 hundred and sixty nine thousand eight hundred dollars (\$18,269,800.00), with  
10 interest thereon. Since that date, CAISO has made one further payment of  
11 \$10,666.57 on March 28, 2005. However, the majority of that balance remains  
12 unpaid, with a significant amount of additional interest now accrued.

13           100. CAISO has disavowed any obligation to pay Grant County any money  
14 for the electric energy sold and delivered by Grant County to CAISO between  
15 November 17, 2000 and December 13, 2000, and has alleged that Grant County's  
16 sole remedy to recover the money for the electric energy sold and delivered by  
17 Grant County to CAISO is against the principals for whom CAISO was allegedly  
18 acting as an agent.

19           101. On information and belief, since December 17, 2000, CAISO has  
20 received money from the various undisclosed principals, a portion of which is due  
21 to Grant County and a portion of which has been disbursed to Grant County and  
22 other parties.

23           102. The identity of all of the alleged principals on whose behalf CAISO  
24 purchased electric energy from Grant County between November 17, 2000 and  
25 December 13, 2000 is unknown to Grant County.

26           103. The amount of electric energy that CAISO purchased on behalf of each  
27 alleged principal from Grant County between November 17, 2000 and December  
28 13, 2000 is unknown to Grant County.



106. The identity of each of CAISO's alleged principals, the amount of electric energy that CAISO purchased on behalf of each such principal, the amount of money due to Grant County from each of CAISO's alleged principals and the amount of payments made by each of CAISO's alleged principals cannot be ascertained by Grant County without an accounting of the identities of all such principals, the respective amounts of electric energy CAISO purchased from Grant County on behalf of each such principal, and CAISO's receipts and disbursements with respect to such purchases.

**WHEREFORE, Grant County respectfully demands judgment:**

4. For a judicial declaration that the SCE and SDG&E are jointly and severally obligated, with their agent CAISO, to pay Grant County that portion of

1 the remaining balance that is attributable to electric energy purchases made by  
2 CAISO from Grant County between November 17, 2000 and December 13, 2000  
3 on their behalf.

4 5. For an accounting of CAISO's purchases, receipts and disbursements  
5 to ascertain the amount of money owed to Grant County by each of CAISO's  
6 alleged principals, including but not limited to the California Electric Companies.

7 Dated: March 1, 2006

Respectfully submitted,

By 

Peter G. McAllen, CA SB#107416  
(Admitted *Pro Hac Vice*)

Attorneys for Plaintiff  
PUBLIC UTILITY DISTRICT NO. 2  
OF GRANT COUNTY  
WASHINGTON

**DEMAND FOR JURY TRIAL**

Plaintiff Grant County hereby demands trial by jury of all justiciable issues properly triable by a jury.

Dated: March 1, 2006

Respectfully submitted,

By: 

Peter G. McAllen, CA SB#107416  
(Admitted *Pro Hac Vice*)

Attorneys for Plaintiff  
PUBLIC UTILITY DISTRICT NO. 2  
OF GRANT COUNTY  
WASHINGTON

Public Utility District No. 2 of Grant County

Phone Number: (509) 754-0500

INVOICE NUMBER

001211-10

Invoice Date: 12/11/2000

Customer ID: CISO

A/R Account: 9114362

Remit to:

California ISO

**EXHIBIT A**

Public Utility District No. 2 of Grant County

P. O. Box 878

Ephrata, WA 98823-0878

If your ( ) billing ( ) mailing; address has changed please write new address above

Terms: 12/22/00

Please return upper portion with remittance

12/11/2000

Surplus Energy Sale-Secondary

\$237,500.00

ACH/Wire Instructions  
Bank of America  
ABA No. 126000024  
Account No. 25010100  
Reference: Grant County PUD #2

Sub Total: \$237,500.00  
Retail Sales Tax: \$0.00  
Leasehold Tax: \$0.00  
Amount Due: \$237,500.00

**Public Utility District No. 2 of Grant County**

Phone Number: (509) 754-0500

**INVOICE NUMBER**

**010110-09**

Invoice Date: 01/10/2001

Customer ID: CISO

AVR Account: 9114362

Remit to:

Brad Bouillon

California ISO

151 Blue Ravine Road

Folsom, CA 95630

Public Utility District No. 2 of Grant County

P. O. Box 878

Ephrata, WA 98823-0878

If your ( ) billing ( ) mailing address has changed please write new address above

Terms: DUE 1/22/01

Please return upper portion with remittance

01/10/2001

Surplus Energy Sale-Secondary

\$18,289,500.00

**EXHIBIT B**

ACH/Wire Instructions

Bank of America

ABA No. 125000024

Account No. 25010108

Reference: Grant County PUD #2

Sub Total: \$18,289,500.00

Retail Sales Tax: \$0.00

Leasehold Tax: \$0.00

Amount Due: \$18,289,500.00